

TATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

November 14, 2008

Board of land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii 96813

PSF: 08HD-135

HAWAII

Resubmittal – Approval in Principle of the Issuance of a Direct Lease to Hamakua Biomass Energy, LLC, for a Commercial Biomass Energy Generation Facility and Hamakua Biomass Holdings, LLC, for Commercial Forestry Purposes, North Hilo, Hamakua, Tax map Keys: Various

At its October 10, 2008 meeting, under agenda item D-3, the Board approved in principle the issuance of a direct lease to Hamakua Biomass Energy, LLC, covering a 63.67-acre State parcel for a commercial biomass energy generation facility. The Board deferred until the November Board meeting consideration of staff's recommendation for the in principle of the issuance of a direct lease to Hamakua Biomass Holdings, LLC ("Hamakua") for up to 10,500 acres of State lands for commercial forestry purposes.

The Board requested the Land Division and DOFAW staff to collaborate and consult with DBEDT staff to 1) identify the total available State-owned lands in the targeted areas suitable for biomass energy production, and 2) determine, based on considerations that include policy, technology and initiative, an appropriate manner to select among multiple and/or competing applicants seeking those lands.

At the Board's October 10, 2008, meeting Hamakua submitted a list of 23,379.289 (Exhibit A) acres from which up to 10,500 acres would be chosen for commercial forestry purposes. On October 22, 2008, Sunfuels Hawaii LLC (Sunfuels), a renewable fuel producer interested in a direct lease of State lands in the same vicinity submitted its list containing up to 37,263.87 acres of State lands it was interested in leasing for commercial forestry purposes.

The Hamakua and Sunfuels lists contain 3,830 acres that appear on both lists. Sunfuels agreed that Hamakua's request for the 3,830 acres would have priority over its request for those particular acres. Sunfuels request will only be considered for any or all of the 3,830 acres that Hamakua decides against leasing or fails to lease.

In addition, DOFAW staff conducted an analysis of the Hamakua parcel list, and after internal discussion and consultation with both Land Division and DBEDT staff, suggest that approximately 18,385 acres identified by Hamakua are not appropriate for use as biomass-for-energy production areas. Those parcels, as State Forest Reserve lands are predominantly native forestlands located within the State Land Use Conservation District. While approximately 1,000 acres within the listed Forest Reserve lands represent mature non-timber plantations that are suitable for commercial use, the trees are predominantly large (50 – 80 years old), highly

valuable, and DOFAW, the Land Division and DBEDT recommend that these resources be directed into the solid wood utilization sector of Hawaii's developing forest products industry.

Attached, as Exhibit A is Hamakua's list of 23,379.289 acres.

Attached, as Exhibit B is DOFAW's list of approximately 18,385 acres (as provided by Hamakua) regarding which staff has concerns.

Attached, as Exhibit C is agenda item D-3 of the Board's October 10, 2008 meeting.

Staff is hereby resubmitting Hamakua's request for an approval in principle for the issuance of a direct lease of up to 10,500 acres of State lands for commercial forestry purposes. Should the lands on Hamakua's list not be suitable for commercial forestry purposes, Hamakua should work with the Department to identify further lands of interest. Staff will work with Hamakua to submit additional acres up to a maximum total of 10,500 acres for Board consideration as appropriate.

RECOMMENDATION:

That the Board approve in principle the issuance of a direct lease to Hamakua Biomass Holdings, LLC of up to 10,500 acres as detailed above with the understanding that the approval in principle shall not be deemed to be an approval of a lease as staff shall return to the Board at a later date for approval of the lease disclosing the negotiated terms and conditions.

Respectfully Submitted,



Gary Martin  
Land Agent

APPROVED FOR SUBMITTAL:

  
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Laura H. Thielen, Chairperson 

<u>TMK</u>	<u>SLU</u>	<u>Parcel Area</u>	
<u>Vacant State Lands</u>			
(3) 3-7-001:002-0000	Agricultural/Cons	4449	FR
(3) 3-7-001:004-0000	Agricultural/Cons	2397	FR
(3) 3-7-001:008-0000	Agricultural/Cons	861	FR
(3) 3-7-001:012-0000	Agricultural/Cons	7894	FR
(3) 4-1-001:006-0000	Agricultural	86.38	
(3) 4-1-002:004-0000	Agricultural	50.9	
(3) 4-1-002:005-0000	Agricultural	21.23	
(3) 4-1-002:006-0000	Agricultural	63.67	
(3) 4-1-003:019-0000	Agricultural	24.95	
(3) 4-1-003:032-0000	Agricultural	5.22	
(3) 4-1-004:001-0000	Agricultural	28.43	
(3) 4-1-004:031-0000	Agricultural	65.572	
(3) 4-1-004:033-0000	Agricultural	333.68	
(3) 4-1-005:001-0000	Agricultural	447.24	
(3) 4-1-006:001-0000	Agricultural/Cons	804	FR
(3) 4-1-006:002-0000	Agricultural	162	
(3) 4-1-006:004-0000	Agricultural	66	
(3) 4-1-006:005-0000	Agricultural/Cons	805	FR
(3) 4-2-001:005-0000	Agricultural	5.37	
(3) 4-2-001:013-0000	Agricultural	5.5	
(3) 4-2-001:015-0000	Agricultural	16.543	
(3) 4-2-001:027-0000	Agricultural	47.457	
(3) 4-2-001:028-0000	Agricultural	7	
(3) 4-2-001:029-0000	Agricultural	12	
(3) 4-2-006:009-0000	Agricultural	18.59	
(3) 4-3-010-001:0000	Agricultural/Cons	612	FR
(3) 4-2-007:002-0000	Agricultural	1061	FR
(3) 4-2-008:001-0000	Agricultural/Cons	562	FR
(3) 4-2-008:002:0000	Agricultural/Cons	1902	FR
(3) 4-3-006:001-0000	Agricultural	12.1	
(3) 4-3-006:004-0000	Agricultural	19.97	
(3) 4-3-006:005-0000	Agricultural	16.5	
(3) 4-3-006:012-0000	Agricultural	50.15	
(3) 4-3-007:002-0000	Agricultural	16	
(3) 4-3-007:002-0000	Agricultural	16	
(3) 4-3-008:002-0000	Agricultural	85.7	
(3) 4-4-003:019-0000	Agricultural	21.5	
(3) 4-4-003:039-0000	Agricultural	6.18	
(3) 4-4-008:001-0000	Agricultural	9.5	
(3) 4-4-008:002-0000	Agricultural	22	
(3) 4-4-008:053-0000	Agricultural	14.9	
(3) 4-4-013:011-0000	Agricultural	20.5	
(3) 4-5-001:007-0000	Agricultural	80.246	
(3) 4-5-001:013-0000	Agricultural	83.3	
(3) 4-6-005:008-0000	Agricultural	15.695	
(3) 4-6-005:010-0000	Agricultural	25.504	
(3) 4-7-001:020-0000	Agricultural	5.262	
(3) 4-7-004:009-0000	Agricultural	35.5	
(3) 4-7-004:011-0000	Agricultural	8.05	
<b>Total Acreage</b>		<b>23379.289</b>	

**EXHIBIT "A"**

Exhibit B - Parcels that DOFAW recommends for exclusion from consideration as lease lands for biomass-to-energy use.

Parcel	Tax acres as provided by HBE	State LUD	Comment - (FR = Forest Reserve; NAR = Natural Area Reserve)
(3) 3-7-001:002	4449	Conservation - Resource	Portion of Hilo FR - predominantly native forest
(3) 3-7-001:004	2,397.00	Conservation - Resource	Portion of Hilo FR - predominantly native forest
(3) 3-7-001:008	861.00	Conservation - Resource	Portion of Hilo FR - predominantly native forest
(3) 3-7-001:012	7,894.00	Conservation - Resource & Protected	Portion of Hilo FR & Laupahoehoe NAR - predominantly native forest
(3) 4-1-006:001	804.00	Conservation - Resource	Portion of Manowaialee FR - predominantly native forest
(3) 4-1-006:005	805.00	Conservation - Resource	Portion of Manowaialee FR - native forest, some non-native plantation
(3) 4-2-008:001	562.90	Conservation - Resource	Portion of Hamakua FR - predominantly non-native plantation
(3) 4-3-010:001	612.00	Conservation - Resource	Portion of Hamakua FR - native forest, some non-native plantation
<b>Total tax acres</b>	<b>18,384.90</b>		

**EXHIBIT "B"**

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

October 10, 2008

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF: 08HD-135

HAWAII

Approval, in Principle, of the Issuance of Direct Leases to Hamakua Biomass Energy, LLC, for a Commercial Biomass Energy Generation Facility and Hamakua Biomass Holdings, LLC, for Commercial Forestry Purposes, North Hilo, Hamakua, Hawaii, Tax Map Keys: Various

APPLICANT:

Hamakua Biomass Energy, LLC, and Hamakua Biomass Holdings, LLC, both Hawaii limited liability corporations, whose business and mailing address is 8 Kiopaa, Suite 104, Pukalani, Hawaii 96768.

LEGAL REFERENCE:

Section 171-95, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of the Government lands of Hamakua situate at North Hilo, Hawaii, identified by Tax Map Key: (3) 4-1-02:6, for a commercial biomass energy generation facility, as shown on the attached map labeled Exhibit A and up to 10,500 acres to be selected for a commercial forestry operation.

AREA:

Commercial biomass energy generation facility: 63.67 acres  
Commercial forestry operation: Up to 10,500 acres.

ZONING:

State Land Use District: Agricultural  
County of Hawaii CZO: Agricultural

TRUST LAND STATUS:

Section 5(b) lands (ceded) of the Hawaii Admission Act.

Most of the selected lands will be DHHL 30% entitlement lands pursuant to the Hawaii State Constitution as they were formerly in sugarcane cultivation in 1978.

*as amended*  
APPROVED BY THE BOARD OF  
LAND AND NATURAL RESOURCES  
AT ITS MEETING HELD ON  
*October 10, 2008*

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**EXHIBIT "C"**  
**D-3**

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Construct, operate and manage a commercial biomass energy generation facility and cultivate, manage and harvest forest products as fuel for the energy generation facility.

LEASE TERM:

Fifty (50) years

COMMENCEMENT DATE:

The first day of the month to be determined by the Chairperson.

ANNUAL RENT:

Fair market annual rent fixed for the first thirty (30) years with 33% rent step-up every tenth year, plus percentage rent as may be applicable, to be determined by staff or independent appraiser, subject to review and approval by the Chairperson.

METHOD OF PAYMENT:

Semi-annual payments, in advance.

RENTAL REOPENINGS:

On the day after the thirtieth (30th) year of the term to be determined by staff or independent appraisal.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Applicant shall prepare an environmental assessment covering the 63.67-acre site of the commercial biomass renewable energy generation facility.

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the Applicant's commercial forestry operation is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1 that exempts "Operations, repairs, or maintenance of existing structures, facilities, equipment or topological features involving negligible, or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:      Hamakua Biomass Energy/Hamakua Biomass Holdings

Place of business registration confirmed:	YES
Registered business name confirmed:	YES
Applicant in good standing confirmed:	YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

1. Select up to 10,500 acres of State lands for a commercial forestry operation, subject to confirmation and concurrence by the Department that the lands selected are not otherwise encumbered for other use and will be available on the commencement date of the applicable leases contemplated herein.
2. Conduct its due diligence and obtain necessary entitlements and permits including compliance with Chapter 343, Hawaii Revised Statutes, as amended.
3. Negotiate and enter into a Power Purchase Agreement with Hawaii Electric Light Company.
4. Secure project financing commitments.
5. Pay for an appraisal to determine initial rent (if applicable).
6. Where necessary process and obtain subdivision approval from the County of Hawaii at Applicant's own cost.
7. Where necessary provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost.

REMARKS:

The State-owned 63.67-acre parcel being proposed as the site for the biomass energy generation facility is located at Maonakomalie and Kaapahu, Hamakua, North Hilo. The site is bordered to the east and north by a 200-acre parcel owned by Kamehameha Schools/Bishop Estate (KS/BE), which is planted in eucalyptus. The parcel was previously leased to Laupahoehoe Sugar Company for sugarcane cultivation. Since 1987 the parcel has been fallow and unencumbered.

The 2008 legislature passed Act 145, which amended Chapter 205, Hawaii Revised Statutes, as amended, to include agricultural-energy facilities as a permitted use within the State Land Use Agricultural District.

The commercial forestry operation on up to 10,500 acres of State-owned lands will include the cultivation, management and harvesting of eucalyptus trees. The harvested trees will be used to fuel the biomass energy generation facility. The facility will use a low emission Circulating Fluidized Boiler and supporting equipment to produce up to 30 megawatts of electrical power.

Previously, the 2002 legislature passed Act 102, which amended Section 171-95, Hawaii Revised Statutes, as amended, by including commercial renewable energy producers as being eligible for directly

issued leases by the Board. Prior to the passage of Act 102 the public auction process was the only means available to a renewable energy producer to obtain a lease from the State. Without reasonable assurance of being issued a lease potential renewable energy producers were reluctant to spend the time and money to conduct due diligence and secure required permits.

The 2008 legislature also passed Act 90, which further amended Section 171-95 by expanding the definition of a renewable energy producer to include any grower or producer of organic materials used primarily for the production of other fuels and/or electrical energy.

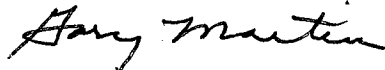
Hamakua Biomass Holdings, LLC, is also in discussions with KS/BE to possibly lease up to 13,000 acres of mature trees owned by KS/BE on the Big Island. A commitment by KS/BE and the Board's approval of the Applicant's request to locate a biomass energy generation facility on State land and cultivate, manage and harvest eucalyptus trees on up to 10,500 acres of State lands formerly cultivated with sugarcane could help the Applicant secure project financing commitments during this time of uncertainty in the financial markets.

The Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION:

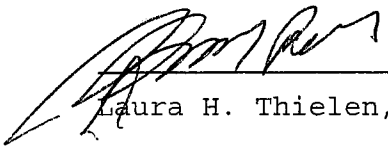

That the Board, subject to the Applicant fulfilling all of the Applicant requirements listed above, approve in principle the issuance of a direct lease to Hamakua Biomass Energy, LLC, covering the State-owned 63.67-acre parcel for a commercial biomass energy generation facility and Hamakua Biomass Holdings, LLC, covering up to 10,500 acres of State-owned lands for a commercial forestry operation with the understanding that the approval in principle shall not be deemed to be an approval of a lease as staff shall return to the Board at a later date for approval of the lease disclosing the negotiated terms and conditions.

Respectfully Submitted,



Gary Martin  
Land Agent

APPROVED FOR SUBMITTAL:

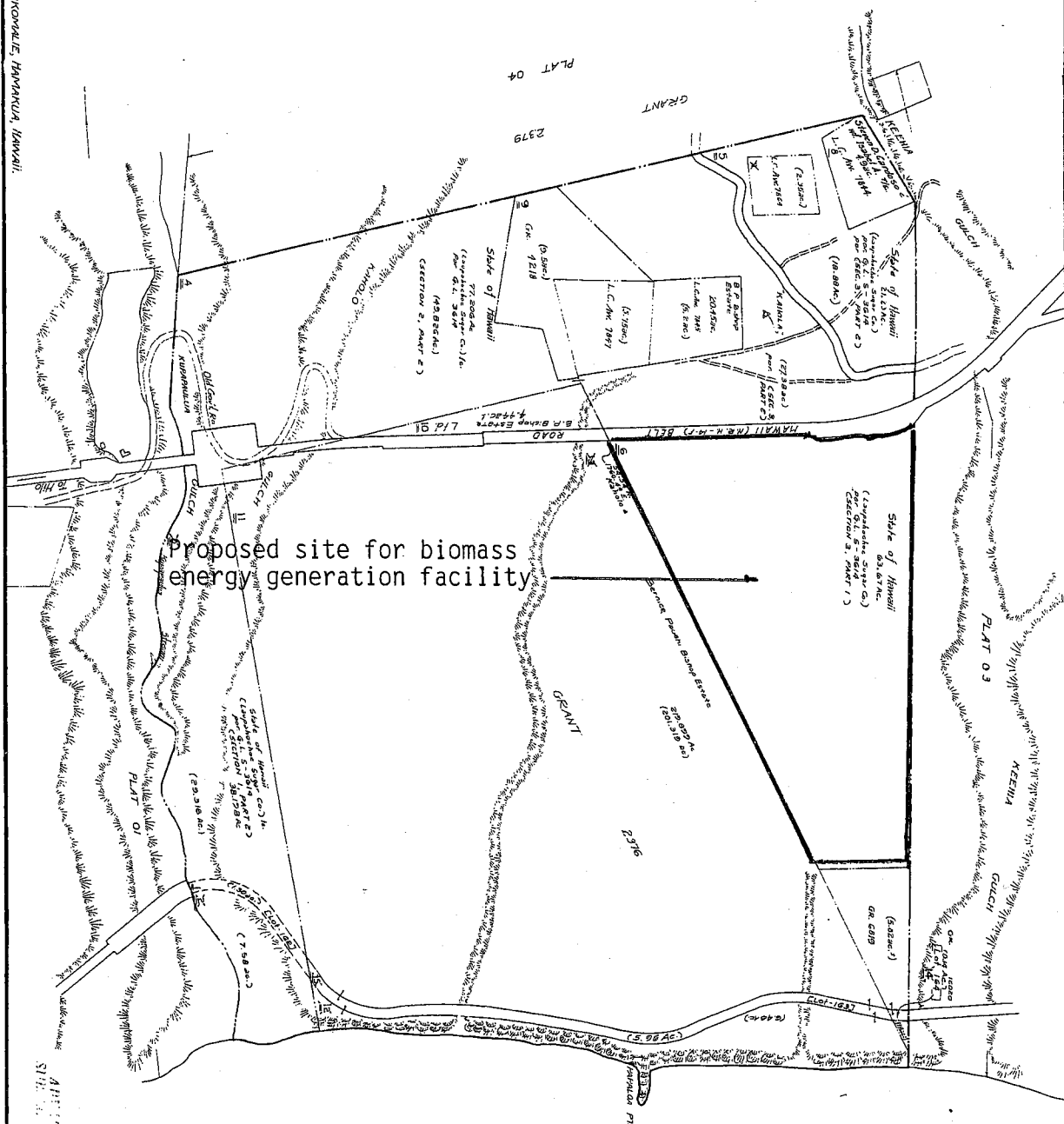
  
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Laura H. Thielen, Chairperson 



Dwg. No. 2369 Revised To:  
 Source: Top Maps Bureau of Survey Department.  
 By: L. H. April, 1935.

4-1-02  
 46  
 1123 185

Part of NIUEA - MOHAKOMOLE, HAWAII, HAWAII.



Dispersed parcels: 14, 2, 3, 11.
THIRD DIVISION
ZONE SEC. PLAT
4 1 02
CONTAINING PARCELS
SCALE 1 in = 300 ft.

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EXHIBIT "A"

**October 10, 2008 Board Meeting : D-3 Approved as Amended**

**Approved As Amended.** The Board approved the issuance of a direct lease to Hamakua Biomass Energy, LLC, in principle only, covering a 63.67 acres State parcel for a commercial biomass energy generation facility. The Board, however, deferred until the November Board meeting, consideration of staff's recommendation for the issuance of direct leases to Hamakua Biomass Holdings, LLC for up to 10,500 acres of State owned lands for commercial forestry operation. The Board directed the Land Division and DOFAW staff to collaborate and consult with DBEDT staff to: (1) identify appropriate State owned lands for biomass energy production in the targeted areas; (2) determine, based on considerations that include policy, technology and initiative, an appropriate manner to select among multiple and/or competing applicants seeking those lands; and (3) formulate a recommendation on how and who to issue direct leases for those lands found to be suitable for the respective purposes stated by the applicants.